



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

HD:hd

Docket No: 02220-99

21 September 2000

[REDACTED]

Dear Commandant [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 September 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 11 and 18 April 2000, copies of which are attached. The Board also considered your letter dated 4 September 2000 with enclosures.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the advisory opinions, except the recommendation, at paragraph 4 of the opinion dated 11 April 2000, to return your service record to you. The record will be returned to the record center from which it was obtained. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official

records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

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1610
PERS-61/061
11 Apr 00

MEMORANDUM FOR EXECUTIVE DIRECTOR, BOARD FOR CORRECTION
OF NAVAL RECORDS

Via: Assistant for BCNR Matters, PERS-00ZCB

Subj: REQUEST FOR COMMENTS AND RECOMMENDATIONS IN CASE OF
COMMANDER [REDACTED] IN, [REDACTED]

Ref: (a) BCNR PERS-00ZCB memo of 16 Mar 00
(b) OPNAVINST 5354.1D Navy EO Manual

Encl: (1) BCNR File 02220-99 w/Service record

1. Reference (a) requested an advisory opinion in response to Commander [REDACTED] request to be recalled back to active duty and promoted to Captain. Enclosure (1) is returned.
2. Commander [REDACTED] served in the Navy during World War II. He was released from service at the end of the war. In 1946, he was recalled back to active duty. He retired from the Navy in 1964.
3. Commander [REDACTED] alleges that he was not promoted to Captain because he was Jewish. In his letter to [REDACTED] he cites excerpts from his fitness reports on his outstanding performance. From the information provided, there is no evidence that Commander [REDACTED] was not promoted to Captain because he was Jewish. I do not feel that he has proved his case of bias in accordance with reference (b).
4. I recommend that his service record be returned to him due to its historical importance.

[REDACTED]
[REDACTED]
[REDACTED]
Director, Professional
Relationships Division
(PERS-61)



DEPARTMENT OF THE NAVY

BUREAU OF NAVAL PERSONNEL

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

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Pers 85

18 Apr 00

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: CDR [REDACTED] JAGC, USN, (RET) [REDACTED]

Ref: (a) PERS-61 Memo 1610 PERS-61/061 of 11 Apr 00

Encl: (1) BCNR File

1. Enclosure (1) is returned, recommending disapproval of CDR [REDACTED]'s request to be recalled to active duty and be retroactively promoted to captain.

2. [REDACTED]'s assertion that he was unfairly evaluated due to religious bias cannot be supported. He provides no factual evidence to support such claim. Board deliberations are, by law, kept secret. Thus, the exact reason he failed to select cannot be determined.

3. Concur with the findings and recommendations provided in reference (a). Recommend disapproval of his request.

[REDACTED]
BCNR Liaison, Officer Promotions
and Enlisted Advancements Division